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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,787	06/16/2000	Drew Waters	108120.00001	3221

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Robert C Klinger
Jackson Walker LLP
2435 North Central Expressway Suite 600
Richardson, TX 75080

EXAMINER

TRUONG, LINH T

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

HCT

Office Action Summary

Application No.

09/595,787

Applicant(s)

WATERS ET AL.

Examiner

Linh Truong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-11,14,15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 8,12,13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Response to Arguments

Applicant's arguments with respect to claims 1, 3 17, and 19-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the predetermined density." There is insufficient antecedent basis for this limitation in the claim.

For claim 11, the phrase "time-delay" is indefinite. It is suggested that Applicant be more specific about what the time delay is for (i.e. the delay of misting).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 14, and 17, are rejected under 35 U.S.C. 102(b) as being anticipated by McClain '5,664,593.

For claims 11 and 14, McClain teaches a tanning system comprising of : a fog chamber (2), a pump system (20) in fluid communication with the fog chamber (2), and a control system (66) connected to the pump system (figures 1, 2, and 8). The control system (66) activates the fog chamber.

For claim 17 McClain teaches a fog chamber (2) with nozzles (54, 58, and 60) attached to a fluid frame disposed within the outer shell (figure 5)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being unpatentable over McClain '5,664,593.

For claim 19, McClain teaches a user control panel (66) that is located on the outside of the outer shell (figure 1). At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to place the control panel within the outer shell because Applicant has not disclosed that the

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specific placement of the control panel provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a control panel on the outside because the fog chamber can still be operated by the user.

For claim 20, McClain teaches an opening at the top of the chamber, not a fan on a hood for ventilation. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have a hood with a fan because Applicant has not disclosed that this specific design provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with an opening for continuous ventilation.

Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being unpatentable over Laughlin '5,922,333 and in view of Sinclair '5,810,259.

For claims 1 and 3, Laughlin teaches a method of generating a fog with a tanning solution comprising the steps of: applying a predetermined pressure to the tanning solution; and passing the tanning solution through a nozzle so that when the solution leaves the nozzle, a fog is generated (and inherently held) for a predetermined amount of time (column 8, lines 12-16) in the fog chamber. Laughlin, however, does not teach a nozzle comprising a disk fan. Sinclair teaches a nozzle (11) with a disk fan (14) for dispersing fluids (figure 3 and column 2, lines 24-34). Therefore, it is obvious to one with ordinary skill in the art to at the time the invention was made to provide the invention of Laughlin with a nozzle with a disk fan for the generation of fine fogs.

For claim 2, Laughlin teaches an orifice with a specific size of 0.6 mm (column 8, lines 39-41).

For claim 4, Laughlin teaches a method of evacuating the fog from the fog chamber (column 12, lines 30-38).

For claim 5, Laughlin teaches a method of generating a fog with a tanning solution where the tanning solution comprises a combination of two bronzers: lawsone and juglone (column 1, lines 51-53 and column 7, lines 31-35).

For claims 6 and 7, Laughlin teaches a method of generating a fog with a tanning solution where the tanning solution comprises a combination of at least one tanning solution and of at least one moisturizer (column 7, lines 55-56).

For claim 10, Laughlin teaches selecting a tanning solution.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over McClain '5,664,593 and in view of Laughlin '6,199,557.

For claim 15, McClain teaches a tanning solution container coupled to the pump system but not a moisturizer solution container. Laughlin, however, teaches adding moisturizers to a tanning solution (column 7, lines 55-56). Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to provide the invention of McClain with a moisturizer solution container for better skin texture.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClain '5,664,593 and in view of Sinclair '5,810,259.

For claim 18, McClain teaches a nozzle but does not teach a nozzle with a disk fan disposed therein. Sinclair teaches a nozzle (11) with a disk fan (14) for dispersing

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fluids (figure 3 and column 2, lines 24-34). Therefore, it is obvious to one with ordinary skill in the art to at the time the invention was made to provide the invention of McClain with a nozzle with a disk fan for the generation of fine fogs.

Allowable Subject Matter

Claims 8, 12-13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh Truong whose telephone number is (703) 605-4974. The examiner can be normally reached on Monday through Friday from 8:00 AM-5:30 PM.

Linh Truong

L.T.


GLENN K. DAWSON
PRIMARY EXAMINER